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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

EXAMINER	
WILSON, ROBERT W	

ART UNIT	PAPER NUMBER
2419	

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09/21/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/648,850	SEBIRE, GUILLAUME	
	Examiner	Art Unit	
	ROBERT W. WILSON	2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/8/09*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10,12,13,16-23,25,27 and 29-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *16-18,34 and 36* is/are allowed.

6)☒ Claim(s) *1-2, 5-6, 10, 12-13, 19-23, 25, 27, 29, & 35* is/are rejected.

7)☒ Claim(s) *3,4,7-9 and 30-33* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 June 2009* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganucheau (U.S. Patent No.: 6,529,740) in view of Homma (U.S. Patent No.: 5,572,678)

Referring to claim 1, Ganucheau teaches: A method (Subscriber (24 per Fig 1) performs the method) comprising at a mobile station (subscriber (24 per Fig 1) and per col. 4 line 66 to col. 5 line 24)

determining a link quality of the point-to-multipoint channel based on link quality related measurement on said point-to-multipoint channel , while multicasting data on point-to-multipoint channel (a subscriber (24 per Fig 1) determines if the signal quality on a point-to-multipoint channel is acceptable and whether switch would be advantageous per col. 12 lines 28 to 47)

Ganucheau does not expressly call for: sending a request to said mobile communication network to thereafter transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality

Homma teaches: sending a request to said mobile communication network to thereafter transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality (multicast data request retransmission via point to point if error occurs and retransmission processing is executed by utilizing the point-to-point channel or per col. 5 line 34 to col. 6 line 7. Clearly the data which was lost or multicast data is resent by point to point and this occurs thereafter the request.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add sending a request to said mobile communication network to thereafter transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality of Homma to the mobile station or subscriber of Terry in order to build a system which can recover when message is corrupted or lost.

Referring to claim 2, the combination of Ganucheau and Homma teach: the method of claim 1.

Ganucheau does not expressly call for: further comprising said network establishing a point-to-point channel in case said determined link quality lies below a link quality

Homma teaches: further comprising said network establishing a point-to-point channel in case said determined link quality lies below a link quality (retransmit via point to point in response to receiving a request per col. 5 line 34 to col. 6 line

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the network establishing a point-to-point channel in case said determined link quality lies below a link quality of Homma to the mobile of the combination of Ganucheau and Homma in order to build a system which can recover when a message is corrupted or lost

3. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganucheau

(U.S. Patent Pub No.: 6,529,740) in view of Homma (U.S. Patent No.: 5,572,678) further in view

of Segura (U.S. Patent No.: 6,360,076)

Referring to claim 5, the combination of Ganucheau and Homma teach: the method of claim 1.

The combination of Ganucheau and Homma do not expressly call for: further comprising said network providing an indication of said given link quality to said mobile

Segura teaches: further comprising said network providing an indication of said given link quality to said mobile (Network provides TQ subscribe MAX per col. 5 line 25 to col. 6 line 12)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the further comprising said network providing an indication of said given link quality to said mobile of Seguara to the mobile of the combination of Ganucheau and Homma in order to build a system which can determine the when reception of the broadcast is no longer within acceptable quality range.

Referring to claim 6, the combination of Ganucheau, Homma, and Segura teach: the method of claim 5

The combination of Ganucheau and Homma do not expressly call for: wherein said network provides an indication of said given link quality to said mobile station for each multicast service for which multicast data is to be transmitted to said mobile station

Segura teaches: wherein said network provides an indication of said given link quality to said mobile station for each multicast service for which multicast data is to be transmitted to said mobile station (Network provides TQ subscribe MAX per col. 5 line 25 to col. 6 line 12)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add wherein said network provides an indication of said given link quality to said mobile station for each multicast service for which multicast data is to be transmitted to said mobile station of Segura to the mobile of the combination of Ganucheau and Homma in order to build a system which can determine the when reception of the broadcast is no longer within acceptable quality range.

4. Claims 10, 12, 23, & 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Terry (U.S. Patent Pub No.: 2003/0220119) in view of Homma (U.S. Patent No.: 5,572,678)

Referring to claim 10, Terry teaches: an apparatus (Fig 3 & 4) comprising:

A measuring portion for performing link quality related measurements on a point-to-multipoint channel via which said mobile station receives multicast data from a mobile communication network (40 per Fig 3 is the measuring portion which receives multicast data form 22 or mobile network per Fig 3 and measures channel quality per Pg 2 Para[0023)

A processing portion for determining a link quality of a point-to-multipoint channel based on a measurement result provided by said measuring portion and for comparing a determine link quality with a given link quality (30 per Fig 3 or a processing portion receive channel quality measurements from a plurality of 40 per Fig 3 and compares the measurements to determine the poorest quality and per Pg 2 Para [0025])

Transmitting portion configured to transmit to the mobile communication network (34 per Fig 3 or transmitting portion transmits to 22 per Fig 3 or mobile communication network) in case said processing portion detect that a determined link quality of a point-to-point channel, in case said processing portion detects that a determined link quality of a point-to-point multipoint channel employed for transmitting said multicast data lies below a given quality link channel employed for transmitting said multicast data lies below a given link quality (30 per Fig 3 determines the low performance channel per Pg 2 Para [0025])

Terry does not expressly call for: request to a mobile communication network to switch and thereafter transmit multicast data via point to point channel

Homma teaches: request to a mobile communication network to switch and thereafter transmit multicast data via point to point channel (multicast data request retransmission via point to point if error occurs and retransmission processing is executed by utilizing the point-to-point channel or per col. 5 line 34 to col. 6 line 7. Clearly the data which was lost or multicast data is resent by point to point and this occurs thereafter the request.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add request to a mobile communication network to switch and thereafter transmit multicast data via point to point channel of Homma to the system of Terry in order to build a system which can recover when message is corrupted or lost.

In addition Terry teaches:

Regarding claim 12, sub-network of mobile communication network (Fig 3 and Fig 4 are a sub-network)

Regarding claim 23, wherein said apparatus is a mobile station or part of a mobile station (Part of a mobile station per Figs 3)

Referring to claim 27, Terry teaches: an apparatus (Fig 3 & 4) comprising:

Means for performing (40 per Fig or means for performing measurements on the FACH. The FACH is used for point to multipoint per Pg 1 Para [0003] to {0004]) link quality related measurements on a point-to-multipoint channel via which said mobile station receives multicast data from a mobile communication network

Means for determining (30 per Fig 3 or means for determining) link quality of a point-to-multipoint channel based on a measurement result provided by said measuring portion and for comparing a determine link quality with a given link quality

Means for transmitting (34 per Fig 3) from said mobile

in case said processing portion detect that a determined link quality of a point-to-point channel, in case said processing portion detects that a determined link quality of a point-to-point multipoint channel employed for transmitting said multicast data lies below a given quality link channel employed for transmitting said multicast data lies below a given link quality (Pg 2 Para[0021] to [0030])

Terry does not expressly call for: request to a mobile communication network to switch and thereafter transmit multicast data via point to point channel

Homma teaches: request to a mobile communication network to switch and thereafter transmit multicast data via point to point channel (multicast data request retransmission via point to point if error occurs and retransmission processing is executed by utilizing the point-to-point channel or per col. 5 line 34 to col. 6 line 7.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add add request to a mobile communication network to switch and thereafter transmit multicast data via point to point channel of Homma to the system of Terry in order to build a system which can recover when message is corrupted or lost.

5. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (U.S. Patent Pub No.: 2003/0220119) in view of Terry (U.S. Patent No.: 6,810,236)

Referring to claim 35, Terry teaches: an apparatus for a mobile communication network comprising:

A communication component (32 per Fig 3) configured to receive from a mobile station measurement results for link quality related measurement on a network for transmitting multicast data to said mobile station

A processing component (30per Fig 3) configured to estimate a link quality of a point-to-multipoint channel while multicasting on a point-to point channel to said mobile station, wherein processing component is configured to estimate said link quality of said point-to-multipoint channel based on said measurement results for said point-to-point channel

A processing component (46 per Fig 4) configured to order said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said estimated link quality of said point-to-multipoint channel reaches a required link quality

to said mobile station, wherein said processing component is configured to estimate said link quality of said point-to-point

Terry does not expressly call for: requesting from the mobile measurement results on link quality

Terry (US 6,810,236) teaches: requesting from the mobile measurement results on link quality (col. 3 lines 1 to 21)

It would have been obvious to add the requesting from the mobile measurement results on link quality of Terry (U.S. 6,810, 236) to communication component configure to receive of Terry in order to determine the best usage of resources.

6. Claims 19-21, 25, & 29 are rejected under 35 U.S.C. 102(E) as being anticipated by Terry (U.S. Patent Pub No.: 2003/0220119)

Referring to claim 19, Terry teaches: an apparatus (Fig 3 & 4) for a mobile communication network comprising:

Transmitting portion (34 per Fig 3) configured for transmitting multicast data using at least one of a point-to-point channel and a point-to-multipoint channel from said mobile

A Processing portion (30 per Fig 3) configured for estimating a link quality of a point-to-multipoint channel while said transmitting portion uses a point-to-point channel for transmitting multicast data to a mobile station and for ordering said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data, in case said estimating link quality lies above a required link quality

wherein ordering by said processing component is via a switch order which switch order releases said point-to-point connection and provides parameter for said point-to-multipoint channel to said mobile station (Scheduling mechanism orders switch PTP to PTM and sends PTM data which has parameters per Fig 3 & 4)

In addition Terry teaches:

Regarding claim 20, said mobile station including a receiving portion for receiving multicast data form said mobile communication network (36 per Fig 3 or receiving portion)

Regarding claim 21, wherein said mobile station further includes:
A measuring portion (40 per Fig 3) configured for performing link quality related measurements on a point-to-point channel via which said mobile station receives multicast data form said subnetwork

A transmitting portion (34 per fig 3) configured for transmitting measurement results of said measuring portion to said sub-network

and wherein said sub-network further includes:

a receiving portion (32 per Fig 3) for receiving form said mobile station measurement results on a link quality of a point-to-point channel employed by said sub-network for transmitting multicast data to said mobile station, said processing portion configured for estimating said link quality of said point-to-point multipoint channel from measurement results received by said receiving portion from a mobile station

Regarding claim 25, wherein said apparatus is a sub-network in a mobile communication network or part of a subnetwork of a mobile communication network (part of a subnetwork per Figs 3 and 4)

Referring to claim 29, Terry, teaches: an apparatus (B18 per Figs 3 & 4) for a mobile communication network (Fig 3 & 4) said apparatus comprising:

Means for transmitting (32 per Fig 3 & per Pg 1 Para [0020] to Pg 2 Para [0028])) multicast data using at least one of a point-to-point channel and a point-to-multipoint

Means for estimating the link quality (30 per Fig 3 and per Pg 1 Para [0020] to Pg 2 Para [0028])) of a point-to-point channel while said transmitting portion uses a point-to-point channel for transmitting multicast data to said mobile station to-multipoint channel and for ordering (46 per Fig 4 orders and per Pg 1 Para [0020] to Pg 2 Para [0028])) said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said estimated link quality lies above a required link quality

wherein said mobile communication network order said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data by means for a switch order, which switch order releases aid point-to-point connection and provides parameters for said point-to-multipoint said mobile station (Scheduling mechanism orders switch PTP to PTM and sends PTM data which has parameters per Fig 3 & 4)

7. Claims 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ganucheau (U.S. Patent No.: 6,529,740) in view of Homma (U.S. Patent No.: 5,572,678) further

in view of Ramaswamy (U.S. Patent No.: 6,571,112)

Referring to claim 13, the combination of Ganucheau and Homma teach: the method of claim 1

The combination of Ganucheau and Homma do not expressly call for: processor readable medium in which software code is stored on a component of a mobile

Ramaswamy teaches: processor readable medium in which software code is stored on a component of a mobile station (col. 4 lines 7 to 29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the processor readable medium in which software code is stored on a component of a mobile station of Ramaswamy to the method of the combination of Ganucheau and Homma because method requires processor readable medium to store the software code in order for the method to be performed by a processor.

Referring to claim 22, the combination of Ganucheau and Homma teach: the method of claim 17

The combination of Ganucheau and Homma do not expressly call for: processor readable medium in which software code is stored on a component of a mobile

Ramaswamy teaches: processor readable medium in which software code is stored on a component of a mobile station (col. 4 lines 7 to 29)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the processor readable medium in which software code is stored on a component of a mobile station of Ramaswamy to the method of the combination of Ganucheau and Homma because method requires processor readable medium to store the software code in order for the method to be performed by a processor.

Claim Objections

10. Claims 12, 13, 20, 21, 22, 23, & 25 are objected to because of the following informalities: Claims 12, 13, 22, 23, & 25 are objected to because these claims are presented as a dependent claims but in reality these claims are independent claims. The examiner recommends that these claims be rewritten as an independent claim. Appropriate correction is required.

Specification

11. The amendment filed 6/22/09 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: On page 6 beginning at line 17 the applicant wishes to add processor readable medium in order to store software code. On Page 13 beginning on line 18 the applicant wished to added processor readable medium for storing software code. Clearly this addition is new matter because applicant's original specification and original claims did not provide support for Processor readable medium. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

12. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

13. Claims 13 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims 13 and 22, the applicant original specification and applicant's original claims did not provide written description support for processor readable medium which stored software instructions; therefore, these claims are rejected as being new matter.

Drawings

14. The drawings are objected to because Replacement Figure 4 is objected to because the applicant has added processor readable medium and prm which is new matter which applicant did not have support for in the original claims, original specification, or original drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Allowable Subject Matter

15. Claims 16-18, 34, & 36 are allowed. The following is an Examiner's statement of reasons for allowance:
Claims 16-18, 34, & 35 are considered allowable since no prior art references or combination of prior art references in combination disclose or suggest the combination of limitations specified in the independent claims including:
"requesting and receiving from a mobile station measurements results for link quality related measurement on a point-to-point channel which point-to-point channel is currently used by said network for transmitting multicast data to said mobile station; in case said estimated link quality of said point-to-multipoint channel reaches a required link quality, ordering said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data" as specified in combination with other limitations in claim 16.

"estimating a link quality of a point-to-multipoint channel while transmitting multicast data on a point-to-point channel to a mobile station; receiving said multicast data by means of a switch order, which switch order releases said point-to-point connection and provides parameter for said point-to-multi-point channel to said mobile station "as specified in combination with other limitations in claim 17.

"performing link quality relative measurements on a point-to-point channel which point-to-point channel is currently used by a mobile communication network for transmitting multicast data to said mobile station; receiving an order form said mobile communication network to switch form said point-to-point channel to said point-to-multipoint channel for receiving said multicast data, in case said mobile communication network determined that said estimated link quality of said point-to-multipoint channel reaches a required link quality, and switching form said point-to-point channel to said point-to-multipoint channel for receiving said multicast data upon receipt of said order" as specified in combination with other limitations in claim 34

"transmitting measurements results to said mobile communication network upon request by said mobile communication network, wherein said measurement results are suited to enable said mobile communication network to estimate a link quality of said point-to-multipoint channel while transmitting multicast data on said point-to-point channel to said mobile station; and to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data upon receipt of said order" as specified in combination with other limitations in claim 36.

16. Claims 3-4, 7-9, 18, & 30-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

17. Applicant's arguments filed 6/8/09 have been fully considered but they are not persuasive.

The examiner respectfully disagrees with the applicant argument that the combination of references do not teach: sending a request to a mobile communication network to transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality

Homma teaches: sending a request to said mobile communication network to transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality (request retransmission via point to point if error occurs and retransmission processing is executed by utilizing the point-to-point channel or per col. 5 line 34 to col. 6 line 7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the sending a request to said mobile communication network to transmit said multicast data via a point-to-point channel in case said determined link quality lies below a give link quality of Homma to the mobile station or subscriber of Terry in order to build a system which can recover when message is corrupted or lost.

The applicant argues that retransmission of a request in case of drop out of information frame is not sufficient to teach switching a multicast channel to a point to point channel. Clearly the reference Homma also teaches: in response to retransmission request issued by a destination receiver terminal a retransmission processing is executed by utilizing a point to point channel per col. 5 lines 51 to 55. Clearly this indicates that switching for retransmission of the data by point to point has occurred.

Next the applicant argues that because the details of Figure 5 processing set for in a signal diagram of applicant specification is not taught and applicant representative goes on to argue all kinds of details about the control information associated with channel selection and the transceiver etc.. None of the details of the processing described in the argument are in the claim language so they are not relevant.

The examiner respectfully disagrees that Homma does not teach: sending a request to a mobile communication network to switch and transmit multicast data is to switch and thereafter transmit

(multicast data request retransmission via point to point if error occurs and retransmission processing is executed by utilizing the point-to-point channel or per col. 5 line 34 to col. 6 line 7) Clearly the data which was lost or multicast data is resent by point to point and this occurs thereafter the request.

Next applicant argues that dependent claims are allowable because based upon the above arguments. The examiner has found the arguments relative to the independent claim not persuasive so the dependent claim argument is not persuasive for the same reasons cited above.

The examiner reminds the applicant that the limitations need to be in the claim language. The examiner is not examining applicant's specification but applicant claim language. Clearly the applicant has not claimed literally "sending link quality related data for enabling a request to a mobile communication network to transmit multicast data via a point-to-point channel in case the determined link quality lies below a given link quality".

The examiner disagrees with the applicant argument that the combination of reference do not teach: "sending link quality related data for enabling a request to a mobile communication network to transmit multicast data via a point-to-point channel in case the determined link quality lies below a given link quality.

Terry teaches: sending link quality related data to a mobile communication network for enabling request when multicast data lies below link quality (40 or measuring portion measures link quality and sends link quality to 22 or mobile communication network per Fig 3 for enabling a request)

Homma teaches: sending a request to a mobile communication transmit multicast data via point-to-point channel in case the determined link lies below a given link quality (multicast data request retransmission via point to point if error occurs and retransmission processing is executed by utilizing the point-to-point channel or per col. 5 line 34 to col. 6 line 7.)

It would have been obvious to one of ordinary skill in the art at the time of the invention to add sending a request to a mobile communication transmit multicast data via point-to-point channel in case the determined link lies below a given link quality of Homma to the system of Terry in order to build a system which can recover when message is corrupted or lost.

Relative to the 101 rejection, applicant has overcome the 101 rejection by changing format but has added new matter in the process which is not proper.

Applicant was not responsive relative to examiner objections that the claims 2, 13, 22, 23, & 25 are objected to because these claims are presented as a dependent claims but in reality these claims are independent claims

The examiner reminds the applicant that by making a drawing change and specification change which adds new matter the MPEP clearly states that the date of submission of drawing changes and specification changes becomes the new filing date of the application.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT W. WILSON whose telephone number is (571)272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dang Ton can be reached on 571/272-3171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert W Wilson/
Primary Examiner, Art Unit 2419

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